

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

2022 MAR 29 P 4:33

CLERK
SOUTHERN DISTRICT OF GA.
[Signature]

DWAYNE HARRIS, JR.,)
Petitioner,)
v.) CV 322-017
SUPERIOR COURT OF WALTON)
COUNTY,)
Respondent.)

O R D E R

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which no objections have been filed. Accordingly, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion, **GRANTS** the motion to proceed IFP, (doc. no. 2), and **DISMISSES** this petition filed pursuant to 28 U.S.C. § 2254 without prejudice. If Petitioner wants to pursue the grounds raised in the instant petition, he should do so by seeking to amend the petition which was transferred to the Middle District. See Harris v. Superior Ct. of Walton Cty., CV 322-026-CDL-CHW, doc. no. 4 (M.D. Ga. Mar. 3, 2022.)

A prisoner seeking relief under § 2254 must obtain a certificate of appealability ("COA") before appealing the denial of his application for a writ of habeas corpus. This

Court “must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” Rule 11(a) to the Rules Governing Section 2254 Proceedings. This Court should grant a COA only if the prisoner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). For the reasons set forth in the Report and Recommendation, and in consideration of the standards enunciated in Slack v. McDaniel, 529 U.S. 473, 482-84 (2000), Petitioner has failed to make the requisite showing. Accordingly, the Court **DENIES** a COA in this case.¹ Moreover, because there are no non-frivolous issues to raise on appeal, an appeal would not be taken in good faith, and Petitioner is not entitled to appeal *in forma pauperis*. See 28 U.S.C. § 1915(a)(3).

Upon the foregoing, the Court **CLOSES** this civil action.

SO ORDERED this 29th day of March, 2022, at Augusta, Georgia.



The image shows a handwritten signature in blue ink, which appears to read "Rudy H. Boender". Below the signature, the text "UNITED STATES DISTRICT JUDGE" is printed in a standard font.

¹“If the court denies a certificate, the parties may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.” Rule 11(a) to the Rules Governing Section 2254 Proceedings.